DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

Supreme Court of Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

FLESHMAN *v.* BIBB.

March 16, 1916.

[88 S. E. 64.]

1. Bills and Notes (§ 352*)—Actions—"Holders in Due Course."—Before maturity and for value plaintiff received an assignment of a note without recourse. One-half of the consideration was furnished by another who was equally interested in the purchase of the note with plaintiff, but the indorsement was to plaintiff alone. The one interested with plaintiff was not charged with notice of any infirmity in the note. Code 1904, § 2841a, cls. 37, 51, 52, and 57, prospectively declare that the indorsement must be an indorsement of the entire instrument; that the holder of a negotiable instrument may sue in his own name; that a holder in due course is one who has taken an instrument that is complete and regular on its face before maturity and without notice of previous dishonor in good faith and for value without notice of any infirmity in the instrument or defect in the title of the party negotiating; and that a holder in due course holds the instrument free from any defect of title of prior parties and from defenses available against them. Held, that plaintiff was a holder in due course.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. §§ 814, 898-908; Dec. Dig. § 352.* 2 Va.-W. Va. Enc. Dig. 430.

For other definitions, see Words and Phrases, First and Second Series, Holder in Due Course.]

2. Bills and Notes (§ 345*)—"Holders in Due Course"—Who Are.—The day after defendant executed a note it was sold by the payee to plaintiff at a 20 per cent discount. There was nothing to indicate to plaintiff that there was a failure of consideration, and, had plaintiff at that time made inquiry of defendant, it would have been unavailing as defendant did not know of the failure. Held, that the mere fact that there were suspicious circumstances did not prevent plaintiff from being a holder in due course.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. §§ 849-852; Dec. Dig. § 345.* 2 Va-W. Va. Enc. Dig. 430.]

Error to Circuit Court, Louisa County.

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Action by W. C. Bibb against W. D. Fleshman. There was a judgment for plaintiff, and defendant brings error. Affirmed.

Hill Carter, of Richmond, and *Gordon & Gordon,* of Louisa, for plaintiff in error.

W. C. Bibb, of Louisa, and *D. H. & Walter Leake,* of Richmond, for defendant in error.

CITY OF RICHMOND *v.* JACKSON et al.

March 16, 1916.

[88 S. E. 49.]

1. Appeal and Error (§ 1051 (2)*)—Review—Harmless Error.—Where the defendant's motion to strike hearsay evidence was overruled, and subsequent undisputed evidence established the same facts, the error was harmless.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 4163; Dec. Dig. § 1051 (2).* 1 Va.-W. Va. Enc. Dig. 584.]

2. Damages (§ 168 (2)*)—Extent of Injury—Evidence.—In an action against a city for an injury received on a sidewalk, the testimony of a physician as to the plaintiff's condition a year after the injury, was admissible to be considered by the jury, if the plaintiff could show that the conditions testified to were caused by the accident.

[Ed. Note.—For other cases, see Damages, Cent. Dig. §§ 480, 485, 486; Dec. Dig. § 168 (2).* 4 Va.-W. Va. Enc. Dig. 187.]

3. Damages (§ 131 (1)*)—Personal Injuries—Excessive Damages.—In an action against a city for injury received on a sidewalk, where the evidence tended to show that the plaintiff's pecuniary loss was appreciable, that he had suffered great pain, and that at the time of the trial, a year later, he was still suffering and partially disabled, it could not be said that a verdict for $700 was excessive.

[Ed. Note.—For other cases, see Damages, Cent. Dig. §§ 357, 363, 364, 370; Dec. Dig. § 131 (1).* 4 Va.-W. Va. Enc. Dig. 202.]

4. Municipal Corporations (§ 821 (18)*)—Defects in Sidewalk—Question for Jury.—In an action for personal injuries caused by a defect in a sidewalk, whether the defendant city gave the defendant contractor notice of the defect held for the jury under the evidence.

[Ed. Note.—For other cases, see Municipal Corporations, Cent. Dig. § 1752; Dec. Dig. § 821 (18).* 12 Va.-W. Va. Enc. Dig. 903.]

5. Municipal Corporations (§ 809 (2)*)—Sewer Contract—Liability of Contractor for Defect.—Where a contract for the construction of a sewer provided that the contractor should be under a duty to guard the work and be primarily liable for any damages the city should

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.